

**STATEMENT OF EMERGENCY
820 KAR 1:050E**

Pursuant to KRS 13A.190(1)(a)(1) and KRS 39A.180, this emergency regulation is being promulgated in order to meet an imminent threat to the public health, safety, or welfare. On March 6, 2020, Governor Andy Beshear signed Executive Order declaring a State of Emergency regarding COVID-19. On March 18, Governor Andy Beshear signed Executive Order 2020-243 requiring all citizens of Kentucky to take all feasible measures to engage in appropriate social distancing. On March 18, 2020, Public Protection Cabinet Secretary Kerry B. Harvey signed an Order that suspended all charitable gaming licenses and all charitable gaming activity. On March 25, 2020, Secretary Harvey signed a subsequent order creating an exception for the suspension of all charitable gaming activity to allow charitable organizations to sell raffle tickets and conduct raffle drawings if all tickets are exclusively sold online and there are no gatherings of people incident to the drawing of a raffle winner during the State of Emergency. This emergency regulation is being filed to allow charitable organizations to conduct raffle drawings using a web-based, publicly accessible random number generator instead of having to print paper tickets and draw the winner from a physical receptacle. An ordinary administrative regulation would not immediately allow organization to use a random number generator to facilitate its raffle drawings while social distancing guidelines remain in effect. This emergency regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation will differ from this emergency regulation by including technical specifications for electronic raffle systems and online raffle systems and will require that these systems be tested and certified by an independent testing laboratory.

AMBROSE WILSON IV, Deputy Commissioner
ANDY BESHEAR, Governor

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Emergency Amendment)**

820 KAR 1:050E. Raffles.

EFFECTIVE: May 22, 2020

RELATES TO: KRS 238.545, 238.550

STATUTORY AUTHORITY: KRS 238.515

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 authorizes the Department of Charitable Gaming to establish and enforce reasonable standards for the conduct of charitable gaming and to promulgate administrative regulations necessary to implement KRS Chapter 238. This administrative regulation establishes standards for the conduct of raffles.

Section 1. Raffle Ticket Construction. (1) Raffle tickets shall have a detachable section or duplicate ticket and shall be consecutively numbered. If raffle tickets are sold electronically, the charitable organization selling the tickets shall provide all purchasers with a physical ticket or electronic communication that contains the information required by subsection (2). The organization shall not send detachable sections or duplicate tickets via United States mail.

(2) The detachable section or duplicate of the ticket shall bear a duplicate number corresponding to the number on the ticket and shall provide space for the purchaser's name, complete address, and telephone number.

- (3) The following information shall be on each ticket:
 - (a) The date and time for each drawing;
 - (b) The location of each drawing;
 - (c) The name of the charitable organization conducting the raffle;
 - (d) The charitable organization's license number or exemption number;
 - (e) The price of the ticket; and
 - (f) Each prize to be awarded with a fair market value over \$500.
- (4) The requirements of subsections (2) and (3) of this section shall be waived if:
 - (a) The raffle tickets sell for five (5) dollars or less, or
 - (b) The raffle sales are initiated and concluded and all winners are selected at a licensed charity fundraising event or a licensed special limited charity fundraising event.

Section 2. Raffle Prizes. (1) A charitable organization conducting a raffle in which real or personal property prizes are to be awarded shall be responsible for the transfer and delivery of the prize without lien or interest of others.

(2) All raffle prizes shall be awarded as indicated on the raffle ticket unless the event at which the raffle was to be conducted is postponed. If the raffle is postponed, all reasonable efforts shall be made to notify ticket holders of the new drawing date.

(3) If the prize to be awarded is the jackpot of a progressive raffle board, the charitable organization's charitable gaming session records shall report in the gross receipts total all startup cash, monies derived from raffle ticket sales, and any other contribution to the jackpot.

Section 3. Conduct of Raffles. (1) Any person holding a raffle ticket shall be permitted to observe the raffle drawing. Organizations may broadcast a raffle drawing via a verifiable online live streaming service to provide ticket holders an opportunity to view the drawing if the organization returns a signed notarized affidavit to the Department within thirty (30) days of the raffle drawing certifying that the organization complied with all relevant statutes and regulations.

(2) A person shall not be required to be present at a raffle drawing in order to be eligible for the prize drawing.

(3) Each ticket seller shall return to the charitable organization the stubs or other detachable sections or duplicates of all tickets sold prior to the drawing.

(4) Before drawing, the charitable organization shall place the seller's portion of each ticket sold into a receptacle from which the winning tickets are to be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

(5) A charitable organization may utilize an electronic random number generator ("RNG") instead of the receptacle required by Subsection (4) of this Section if the charitable organization:

(a) Uses a random number generator hosted by a publicly accessible third-party website that is identified and approved by the department before the drawing;

(b) Ensures that all numbers of purchased tickets are included in the range of numbers from which the RNG will select a winning ticket;

(c) Uses the RNG to select only one winning number per raffle prize to be awarded, unless the number generated by the RNG is associated with a refunded, unsold, or voided ticket, in which case the organization may use the RNG to select another winning ticket number; and

(d) Provides an affidavit on a form to be supplied by the department in which the organization verifies its compliance with all provisions of KRS Chapter 238 and these administrative regulations.

(f) Retains with its session records a screenshot of the RNG that includes the range of numbers into the RNG and the winning number selected by the RNG.

Section 4. Claiming Raffle Prizes. (1) If the winner is not present at the drawing, the charitable organization shall notify the winner within seven (7) days of the drawing that the winner shall claim the prize within thirty (30) days.

(2) If a winner does not wish to claim the prize but wishes to donate it to the charitable organization, the charitable organization shall obtain a written statement of the winner's intention within the thirty (30) day period. A charitable organization shall not accept the donation to the charitable organization of a prize won if doing so would violate KRS 238.540.

(3) If a raffle winner does not claim the prize or donate it to the charitable organization within thirty (30) days after having been contacted by certified mail, or if the raffle winner is ineligible by law to claim the prize, the charitable organization shall notify the department and draw another ticket in the presence of department personnel.

(4) The requirements of subsections (1), (2), and (3) of this section shall be waived, and the charitable organization shall be allowed to draw tickets until a winner is present if:

(a) The raffle tickets sell for five (5) dollars or less;

(b) The raffle sales are initiated and concluded and all winners are selected at a licensed charity fundraising event; or

(c) The raffle sales are initiated and concluded and all winners are selected at a licensed special limited charity fundraising event.

This is to certify that this administrative regulation was distributed for review and comment to the Charitable Gaming Advisory Commission prior to its adoption, as required by KRS 238.522(1).

AMBROSE WILSON IV, Deputy Commissioner

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: May 22, 2020

FILED WITH LRC: May 22, 2020 at 4 p.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Doug Hardin, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation allows charitable organizations to utilize a random number generator to conduct electronic raffles.

(b) The necessity of this administrative regulation: In light of the COVID-19 pandemic, the Cabinet Secretary has signed two Cabinet orders relating to charitable gaming. One order suspended all charitable gaming activities in the Commonwealth, and a subsequent order created a narrow exception to allow charitable organizations to sell raffle tickets online and conduct their drawings online. This regulatory amendment aids helps organization generate revenue while conforming to these executive orders.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Raffles are included in the definition of charitable gaming in KRS 238.505(2). Nothing in this regulation is inconsistent with the definition of raffle in KRS 238.505(7) or the statutory requirements for a raffle found in KRS 238.545(3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes standards for the conduct of raffles utilizing

a web-based random number generator and establishes procedures to verify the fairness of these raffles.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This regulation gives charitable organization an additional method for conducting a raffle draw and therefore no longer requires them to print paper tickets and physically draw a ticket from a receptacle, which aids in drawings being conducted safely.

(b) The necessity of the amendment to this administrative regulation: Charitable organizations that rely on charitable gaming as a source of fundraising have seen a significant reduction in revenue as a result of the COVID-19 pandemic and measures that have been implemented to address it. This regulation, along with the Secretary's order mentioned in response to question (1) above, gives the charitable organization an option to generate revenue during the current state of emergency. This regulation also reduces operating costs by allowing organizations to utilize a free random number generator to select winners without having to incur the costs of printing paper tickets.

(c) How the amendment conforms to the content of the authorizing statutes: Raffles are included in the definition of charitable gaming in KRS 238.505(2). Nothing in this regulation is inconsistent with the definition of raffle in KRS 238.505(7) or the statutory requirements for a raffle found in KRS 238.545(3).

(d) How the amendment will assist in the effective administration of the statutes: This regulation establishes standards for the conduct of raffles utilizing a web-based random number generator and establishes procedures to verify the fairness of these raffles.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation would affect the Public Protection Cabinet, the Department of Charitable Gaming, and the Department's licensees and exempt organizations. The Department currently has 551 licensed charitable organizations and 831 charitable organizations that possess a certificate of exemption. All of these organizations would be eligible to conduct raffles in the manner allowed by this regulatory amendment. Currently the Department has 22 licensed charitable organizations who are conducting online raffles pursuant to the Secretary's Order of March 25, 2020.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: Licensees who choose to conduct electronic raffles pursuant to this regulatory amendment will have to identify the web-based random number generator and get approval from the Department to use it. They will still have to comply with all existing statutes and regulations related to the conduct of the raffle and the recordkeeping and reporting requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional cost to the Department or its licensees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will save licensees money since they will no longer be required to print paper tickets or purchase a physical receptacle from which to draw the winning ticket. It also enhances the safety of drawings, as all raffles may now be wholly completed electronically.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no anticipated additional initial costs to administer this emergency administrative regulation.

(b) On a continuing basis: There are no anticipated additional initial costs to administer this emergency administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this emergency administrative regulation is not anticipated to result in additional costs to the Public Protection Cabinet.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This emergency administrative regulation will not necessitate an increase in fees or require funding to the Public Protection Cabinet for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this emergency administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because all applicants will be subject to the application and eligibility requirements established by the emergency administrative regulation equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public Protection Cabinet and Department of Charitable Gaming

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 238.505, KRS 238.500, and KRS 238.545.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This emergency administrative regulation could result in a nominal increase in revenue for the Department from the charitable gaming fee applied to the licensee's gross receipts from the sale of raffle tickets.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This emergency administrative regulation could result in a nominal increase in revenue for the Department from the charitable gaming fee applied to the licensee's gross receipts from the sale of raffle tickets.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional initial costs to administer this emergency administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional initial costs to administer this emergency administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None